

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

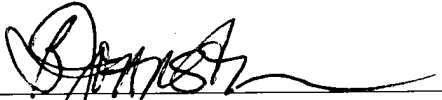
In the Matter of the Accusation Against:)	
)	File No. 10-2007-187978
WAYNE A. FUNK, M.D.)	
)	
Physician's and Surgeon's)	
Certificate No. C15738)	
)	
Respondent.)	
_____)	

DECISION

The attached Stipulated Surrender of License is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California as its Decision in the above entitled matter.

This Decision shall become effective at **5:00 p.m. on** November 17, 2009.

IT IS SO ORDERED November 10, 2009.



Barbara Johnston
Executive Director

1 EDMUND G. BROWN JR.
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MICHAEL S. COCHRANE
Deputy Attorney General
4 State Bar No. 185730
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
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7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 WAYNE A. FUNK, M.D.
2606 Fletcher Parkway
14 El Cajon, CA 92020

15 Physician's and Surgeon's Certificate
No. C15738,

16 Respondent.
17
18

Case No. 10-2007-187978

OAH Case No. 2008090365

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 PARTIES

22 1. Barbara Johnston (Complainant) is the Executive Director of the Medical
23 Board of California. She brought this action solely in her official capacity and is represented in
24 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Michael S.
25 Cochrane, Deputy Attorney General.

26 2. Wayne A. Funk, M.D. (respondent) is represented in this proceeding by
27 attorney Robert W. Frank, Esq., of the law firm Neil, Dymott, Frank, McFall & Trexler, whose
28 address is 1010 Second Avenue, Suite 2500, San Diego, California, 92101-4959.

3. On or about April 13, 1954, the Medical Board of California issued Physician's and Surgeon's Certificate C15738 to respondent. Respondent's Physician's and Surgeon's Certificate No. C15738 was in full force and effect at all times relevant to the charges brought by Accusation No. 10-2007-187978, and will expire on April 30, 2010.

JURISDICTION

4. On January 7, 2009, Accusation No. 10-2007-187978 was filed before the Medical Board of California (Board), and is currently pending against respondent. A true and correct copy of Accusation No. 10-2007-187978 and all other statutorily required documents were properly served on respondent on January 7, 2009. On or about January 14, 2009, respondent filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 10-2007-187978 is attached hereto as Exhibit "A" and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 10-2007-187978. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 10-2007-187978; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent agrees that, at an administrative hearing, complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 10-2007-187978, a true and correct copy of which is attached hereto as Exhibit "A," and that
5 he has thereby subjected his Physician's and Surgeon's Certificate No. C15738 to disciplinary
6 action.

7 9. Respondent understands and agrees that if he ever petitions for licensure or
8 petitions for reinstatement in the State of California, the Board will treat it as a new application
9 for licensure. Respondent understands and agrees that he must comply with all the laws,
10 regulations and procedures for licensure in effect at the time of the application is filed, and all of
11 the charges and allegations contained in Accusation No. 10-2007-187978 shall be deemed true,
12 correct and fully admitted by respondent when the Board determines whether to grant or deny the
13 application or petition.

14 10. Respondent understands that by signing this Stipulated Surrender of
15 License and Disciplinary Order he is enabling the Board to issue an order accepting the surrender
16 of his Physician's and Surgeon's Certificate No. C15738 without further notice to or opportunity
17 to be heard by respondent.

18 CONTINGENCY

19 11. This Stipulated Surrender of License and Disciplinary Order shall be
20 subject to approval of the Board. The parties agree that this Stipulated Surrender of License and
21 Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled
22 matter and, further, that the Board shall have a reasonable period of time in which to consider and
23 act on this stipulation after receiving it. By signing this stipulation, respondent fully understands
24 and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the
25 time the Board considers and acts upon it.

26 12. The parties agree that this Stipulated Surrender of License and Disciplinary
27 Order shall be null and void and not binding upon the parties unless approved and adopted by the
28 Board, except for this paragraph, which shall remain in full force and effect. Respondent fully

1 understands and agrees that in deciding whether or not to approve and adopt this Stipulated
2 Surrender of License and Disciplinary Order, the Board may receive oral and written
3 communications from its staff and/or the Attorney General's office. Communications pursuant to
4 this paragraph shall not disqualify the Board, any member thereof, and/or any other person from
5 future participation in this or any other matter affecting or involving respondent. In the event that
6 the Board, in its discretion, does not approve and adopt his Stipulated Surrender of License and
7 Disciplinary Order, with the exception of this paragraph, it shall not be relied upon or introduced
8 in any disciplinary action by either party hereto. Respondent further agrees that should the Board
9 reject this Stipulated Surrender of License and Disciplinary Order for any reason, respondent will
10 assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review,
11 discussion, and consideration of this Stipulated Surrender of License and Disciplinary Order or of
12 any matter or matters related hereto.

13 ADDITIONAL PROVISIONS

14 13. This Stipulated Surrender of License and Disciplinary Order is intended by
15 the parties herein to be an integrated writing representing the complete, final and exclusive
16 embodiment of the agreements of the parties in the above-entitled matter.

17 14. The parties agree that facsimile copies of this Stipulated Surrender of
18 License and Disciplinary Order, including facsimile signatures of the parties, may be used in lieu
19 of original documents and signatures and, further, that facsimile copies and signatures shall have
20 the same force and effect as originals.

21 15. In consideration of the foregoing admissions and stipulations, the parties
22 agree that the Board may, without further notice to or opportunity to be heard by respondent,
23 issue and enter the following Order:

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ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C15738, issued to respondent Wayne A. Funk, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of respondent's Physician's and Surgeon's Certificate No. C15738 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against respondent. This stipulation constitutes a record of the discipline and shall become a part of respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board both his wall and pocket license certificate on or before the effective date of the Decision and Order.

4. If respondent ever applies for licensure or petitions for reinstatement of his license in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 10-2007-187978 shall be deemed to be true, correct and fully admitted by respondent when the Board determines whether to grant or deny the application or petition.

5. Should respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 10-2007-187978 shall be deemed to be true, correct, and fully admitted by respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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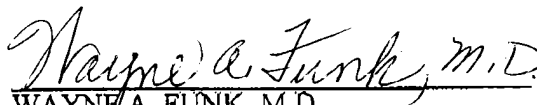
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order and have fully discussed it with my attorney, Robert W. Frank, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C15738. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: Sept 2, 2009.


WAYNE A. FUNK, M.D.
Respondent

I have read and fully discussed with respondent Wayne A. Funk, M.D., the terms and conditions and other matters contained in this Stipulated Surrender of License and Disciplinary Order. I approve its form and content.

DATED: 9-8-09


ROBERT W. FRANK, ESQ.
Attorney for Respondent

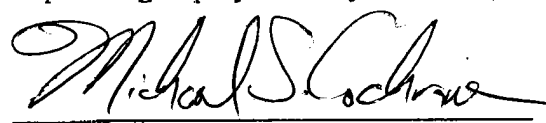
ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 10/15/09

EDMUND G. BROWN JR.,
Attorney General of the State of California

THOMAS S. LAZAR
Supervising Deputy Attorney General


MICHAEL S. COCHRANE
Deputy Attorney General

Attorneys for Complainant

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Exhibit A
Accusation No. 10-2007-187978

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO January 7, 2009
BY Marie M... ANALYST

1 EDMUND G. BROWN JR.,
Attorney General of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MICHAEL S. COCHRANE, State Bar No. 185730
Deputy Attorney General
4 110 West "A" Street, Suite 1100
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6 P.O. Box 85266
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8 Attorneys for Complainant

9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 10-2007-187978

13 WAYNE A. FUNK, M.D.
2606 Fletcher Parkway
14 El Cajon, CA 92020

OAH No.

ACCUSATION

15 Physician's and Surgeon's Certificate
16 No. C15738,

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Barbara Johnston (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Director of the Medical Board of California.

22 2. On or about April 13, 1954, the Medical Board of California (Board)
23 issued Physician's and Surgeon's Certificate Number C15738 to Wayne A. Funk, M.D.
24 (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times
25 relevant to the charges brought herein and will expire on April 30, 2010, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the
3 following laws. All section references are to the Business and Professions Code (Code) unless
4 otherwise indicated.

5 4. Section 2227 of the Code provides that a licensee who is found guilty
6 under the Medical Practice Act may have his or her license revoked, suspended for a period not
7 to exceed one year, placed on probation and required to pay the costs of probation monitoring, be
8 publically reprimanded, or such other action taken in relation to discipline as the Board deems
9 proper.

10 5. Section 2234 of the Code states:

11 "The Division of Medical Quality¹ shall take action against any licensee
12 who is charged with unprofessional conduct. In addition to other provisions of
13 this article, unprofessional conduct includes, but is not limited to, the following:

14 "(a) Violating or attempting to violate, directly or indirectly, assisting in
15 or abetting the violation of, or conspiring to violate any provision of this chapter
16 [Chapter 5, the Medical Practice Act].

17 "(b) Gross negligence.

18 "(c) Repeated negligent acts. To be repeated, there must be two or more
19 negligent acts or omissions. An initial negligent act or omission followed by a
20 separate and distinct departure from the applicable standard of care shall
21 constitute repeated negligent acts.

22 "(1) An initial negligent diagnosis followed by an act or omission
23 medically appropriate for that negligent diagnosis of the patient shall constitute a
24 single negligent act.

25
26 _____
27 1. California Business and Professions Code section 2002, as amended and effective January 1, 2008,
28 provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practice Act (Cal.
Bus. & Prof. Code, §§2000, et. seq.) means the "Medical Board of California," and references to the "Division of
Medical Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to
the Board.

1 “(2) When the standard of care requires a change in the diagnosis, act, or
2 omission that constitutes the negligent act described in paragraph (1), including,
3 but not limited to, a reevaluation of the diagnosis or a change in treatment, and the
4 licensee's conduct departs from the applicable standard of care, each departure
5 constitutes a separate and distinct breach of the standard of care.

6 “...”

7 6. Section 2238 of the Code states:

8 “A violation of any federal statute or federal regulation or any of the
9 statutes or regulations of this state regulating dangerous drugs or controlled
10 substances constitutes unprofessional conduct.”

11 7. Section 2242 of the Code states, in pertinent part,

12 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in
13 Section 4022 without an appropriate prior examination and a medical indication,
14 constitutes unprofessional conduct.”

15 8. Section 2266 of the Code states:

16 “The failure of a physician and surgeon to maintain adequate and accurate
17 records relating to the provision of services to their patients constitutes
18 unprofessional conduct.”

19 9. Section 725 of the Code states, in pertinent part,

20 “(a) Repeated acts of clearly excessive prescribing, furnishing,
21 dispensing, or administering of drugs or treatment . . . is unprofessional conduct
22 for a physician and surgeon . . .”

23 “...”

24 “(c) A practitioner who has a medical basis for prescribing, furnishing,
25 dispensing, or administering dangerous drugs or prescription controlled
26 substances shall not be subject to disciplinary action or prosecution under this
27 section.

28 ///

1 “(d) No physician and surgeon shall be subject to disciplinary action
2 pursuant to this section for treating intractable pain in compliance with Section
3 2241.5.”

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Gross Negligence)**

6 10. Respondent is subject to disciplinary action under section 2234, as defined
7 by section 2234, subdivision (b), of the Code, in that he has engaged in gross negligence in his
8 care and treatment of his patients, as more particularly described hereinafter:

9 (a) On or about January 15, 2008, investigators from the United States Drug
10 Enforcement Administration (DEA) and an investigator from the Board appeared at
11 Respondent's medical office with a Warrant of Inspection to perform an administrative
12 inspection of Respondent's controlled substances, records, files, order forms, logs and
13 any other documents required under the Controlled Substances Act, Title 21 of the United
14 States Code. During this inspection the investigators observed a counter with numerous
15 sample medications and a basket containing prescription bottles, including controlled
16 substances, which were returned by patients. Some of these prescriptions bottles still
17 held medication. There was also a full drawer of prescription bottles, many with expired
18 dates, which Respondent stated had been returned by patients. Respondent told the
19 investigators that he collected unused medications from patients and then re-issued the
20 medications to other patients, as a means of making the medications more affordable.

21 (b) Respondent surrendered his DEA certificate to the DEA investigators on
22 January 15, 2008. The DEA investigators seized controlled substances from
23 Respondent's office. The seized medication included:

24 (1) 16 capsules of Oxycodone HCL 5 mg, a Schedule II controlled substance,
25 in a patient's prescription bottle;

26 (2) 240 capsules of Diazepam, a Schedule IV controlled substance, in a
27 patient's prescription bottle;

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1 (3) 35 tablets of Lorazepam 2 mg, a Schedule IV controlled substance, in a
2 patient's prescription bottle; and

3 (4) 14 tablets of Temazepam 15 mg, a Schedule IV controlled substance, in a
4 patient's prescription bottle.

5 (c) On June 6, 2008, Respondent was interviewed by an investigator and a
6 district medical consultant for the Board. During this interview, Respondent stated he
7 had a long-standing practice of accepting unused medications from patients and reissuing
8 them to other patients as samples. Respondent estimated he did this about once a month.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Prescribing Without Appropriate Prior Examination and Medical Indication)**

11 11. Respondent is further subject to disciplinary action under section 2234, as
12 defined by 2242, in that he prescribed, dispensed, or furnished dangerous drugs without an
13 appropriate prior examination and without a medical indication, as more particularly alleged
14 hereinafter:

15 (a) On or about November 10, 2007, the Board initiated an investigation upon
16 receipt of a complaint letter from Dr. S.R., who reported she was providing treatment to
17 Patient S.L. for detoxification of Xanax (Alprazolam), which had been prescribed to him
18 in large quantities by Respondent. Patient S.L. was well known to Dr. S.R. from prior
19 treatment for dependence of benzodiazepines, opiates, amphetamines, and Neurontin.
20 Patient S.L. told Dr. S.R. that Respondent offered to dispense 100 Xanax to him for \$25,
21 but he declined the offer. Patient S.L. also reported Respondent gave him 10 Xanax
22 tablets from his office, and offered to prescribe him stimulants.

23 (b) A Controlled Substance Utilization Review and Evaluation System
24 (CURES) report indicates Respondent prescribed Xanax, a Schedule IV controlled
25 substance, to Patient S.L. as follows:

26 (1) 240 1 mg tablets filled on or about September 26, 2007;

27 (2) 30 2 mg tablets filled on or about October 7, 2007;

28 (3) 240 1 mg tablets filled on or about October 14, 2007;

- 1 (4) 120 2 mg tablets filled on or about October 15, 2007;
2 (5) 120 2 mg tablets filled on or about October 31, 2007; and
3 (6) 120 2 mg tablets filled on or about November 29, 2007.
4 (c) In addition to the above prescriptions for Xanax, Respondent dispensed
5 ten 2 mg tablets of Xanax to Patient S.L. on or about October 29, 2007.
6 (d) Patient S.L. told Respondent he had been taking up to 16 mg per day of
7 Xanax, and that he had been "cut off" from Xanax at the VA Hospital.
8 (e) Respondent failed to obtain an adequate history, and failed to request prior
9 medical records of Patient S.L., prior to prescribing and dispensing dangerous drugs to
10 Patient S.L.
11 (f) The amounts of Xanax Respondent prescribed to Patient S.L. were not
12 medically indicated.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Excessive Prescribing)**

15 12. Respondent is further subject to disciplinary action under section 2234,
16 subdivision (a), and 2238, as defined by section 725, of the Code, in that he committed repeated
17 acts of clearly excessive prescribing or administering of drugs in his care and treatment of Patient
18 S.L., as more particularly alleged hereinafter: Paragraph 11, above, is hereby incorporated by
19 reference as if fully set forth herein.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Violation of Drug Statutes and Regulations)**

22 13. Respondent is further subject to disciplinary action under section 2234, as
23 defined by section 2238, in that he has violated a federal statute or federal regulation and/or any
24 of the statutes or regulations of the State of California regulating dangerous drugs or controlled
25 substances, as more particularly alleged hereinafter:

- 26 (a) Paragraphs 10, 11, and 12, above, are hereby incorporated by reference as
27 if fully set forth herein.

28 ///

1 (b) Respondent failed to keep a biennial inventory of all stocks of controlled
2 substances, as required by Title 21 of the Code of Federal Regulations, Part 1304.

3 (c) Respondent failed to store controlled substances in a securely locked
4 cabinet, as required by Title 21 of the Code of Federal Regulations, section 1301.75.

5 **FIFTH CAUSE FOR DISCIPLINE**

6 **(Failure to Maintain Adequate and Accurate Records)**

7 14. Respondent is further subject to disciplinary action under section 2234, as
8 defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records
9 related to the provision of services to his patients, as more particularly described hereinafter:

10 (a) Paragraph 11, above, is hereby incorporated by reference as if fully set
11 forth herein.

12 (b) Respondent did not document the reasons or justifications for prescribing
13 scheduled substances, or the quantities of such prescriptions in Patient S.L.'s chart. Nor
14 did Respondent document the instructions given to Patient S.L. in regard to administering
15 the prescribed medications.

16 (c) Respondent did not document his dispensing of Xanax directly to Patient
17 S.L. in the patient's chart.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Repeated Negligent Acts)**

20 15. Respondent is further subject to disciplinary action under section 2234, as
21 defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent
22 acts in his care and treatment of his patients, as more particularly alleged hereinafter: Paragraphs
23 10, 11, 12, 13, and 14, above, are hereby incorporated by reference as if fully set forth herein.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Medical Board of California issue a decision:


4 1. Revoking or suspending Physician's and Surgeon's Certificate Number
5 C15738, issued to Wayne A. Funk, M.D.

6 2. Revoking, suspending, or denying Respondent's approval authority
7 to supervise physicians' assistants pursuant to section 3527 of the Code.;

8 3. Ordering Respondent to pay the Board, if placed on probation, the
9 costs of probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.
11

12 DATED: January 7, 2009

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14 BARBARA JOHNSTON *for*
15 Executive Director
16 Medical Board of California
17 State of California
18 Complainant
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1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MICHAEL S. COCHRANE, State Bar No. 185730
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7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 WAYNE FUNK, M.D.

14 Respondent.

Case No. 10-2007-187978

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

15
16 TO RESPONDENT:

17 Under section 11507.6 of the Government Code of the State of California, parties
18 to an administrative hearing, including the Complainant, are entitled to certain information
19 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
20 Government Code concerning such rights is included among the papers served.

21 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
22 ARE HEREBY REQUESTED TO:

- 23 1. Provide the names and addresses of witnesses to the extent known to the
24 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
25 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
26 the following in the possession or custody or under control of the Respondent:
27 a. A statement of a person, other than the Respondent, named in the initial
28 administrative pleading, or in any additional pleading, when it is claimed that the act or

1 omission of the Respondent as to this person is the basis for the administrative
2 proceeding;

3 b. A statement pertaining to the subject matter of the proceeding made by any
4 party to another party or persons;

5 c. Statements of witnesses then proposed to be called by the Respondent and
6 of other persons having personal knowledge of the acts, omissions or events which are the
7 basis for the proceeding, not included in (a) or (b) above;

8 d. All writings, including but not limited to reports of mental, physical and
9 blood examinations and things which the Respondent now proposes to offer in evidence;

10 e. Any other writing or thing which is relevant and which would be
11 admissible in evidence, including but not limited to, any patient or hospital records
12 pertaining to the persons named in the pleading;

13 f. Investigative reports made by or on behalf of the Respondent pertaining to
14 the subject matter of the proceeding, to the extent that these reports (1) contain the names
15 and addresses of witnesses or of persons having personal knowledge of the acts,
16 omissions or events which are the basis for the proceeding, or (2) reflect matters
17 perceived by the investigator in the course of his or her investigation, or (3) contain or
18 include by attachment any statement or writing described in (a) to (e), inclusive, or
19 summary thereof.

20
21 For the purpose of this Request for Discovery, "statements" include written
22 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
23 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
24 and written reports or summaries of these oral statements.

25 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
26 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
27 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
28 work product.

1 Your response to this Request for Discovery should be directed to the undersigned
2 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
3 **30 days after service** of the Accusation.

4 Failure without substantial justification to comply with this Request for Discovery
5 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
6 of the Government Code.

7 DATED: December 8, 2008

8 EDMUND G. BROWN JR., Attorney General
9 of the State of California

10 THOMAS S. LAZAR
11 Supervising Deputy Attorney General

12 

13 MICHAEL S. COCHRANE
14 Deputy Attorney General

15 Attorneys for Complainant

16 Discovery.wpd
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